IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

CR.REV.NO. 96 /2003

(13)

APPLICANT : Vipin Tiwari
S/o Padman Tiwari,
Aged about 40 years,
Occupation:Govt.Servant
(Constable)
R/o near Bavali Kuna,Baikunthpur
District-Raigarh (CG).

(829/07)
Filed on 24/1/03
by Shri Lujam Deshmukh Advocate.

R to D.R.(J)

VERSUS

NON-APPLICANT : State of Chhattisgarh
Through P.S. Kotwali, Raigarh
District-Raigarh (CG).

CRIMINAL REVISION U/S 397 READ WITH SECTION 401 OF THE CODE OF CRIMINAL PROCEDURE

(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr Rev. 96/03 **सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

29-3-2003

Shri P. Diwakar, counsel for the applicant.

Miss Sharmila Singhai, Deputy Govt. Advocate for the State.

Heard both the counsel.

The accused/applicant has preferred this criminal revision under Section 397 read with section 401 of the Code of Criminal Procedure, being aggrieved by the judgment dated 21st January 2003 passed in criminal appeal No. 152/2001 by the 1st Additional Sessions Judge, Raigarh, arising out of the judgment dated 21st August 2001 passed by the Chief Judicial Magistrate, Raigarh in criminal case No. 593/1998.

The learned Chief Judicial Magistrate convicted the accused/applicant along with other accused persons for the offences under Sections 294 and 323 read with 34 of the I.P.C. and sentenced him to pay fine of Rs. 2000/- and imprisonment of six months and to pay fine of Rs. 500/-, in default of payment of fine to further undergo R.I. for two months and 15 days respectively. On appeal the learned Additional Sessions Judge while maintaining the conviction under Section 323 read with Section 34 I.P.C., reduced the sentence from six months to till rising of the Court, but maintained the fine amount whereas the conviction and sentence of fine both were maintained under Section 294 I.P.C.

I have heard the learned counsel for the accused/applicant and the learned Deputy Govt. Advocate for the State.

GRPRJ—FS/78 —2/200(—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

The learned counsel for the accused/applicant argued that the accused is a constable working in the Police Department and if the sentences of till rising of the Court and fine are not set aside then there is every likelihood that it will affect his service carrier and there is nothing on the record which goes to show that the accused/applicant has committed any offence on the previous occasions. He is a public servant, therefore, in order to protect his service, the benefit of the Probation of Offenders Act may be extended to him.

The learned Deputy Govt. Advocate could not point out anything against the accused/applicant about his conduct or involving in any other criminal activities.

Heard the learned counsel for the parties and having regard to the fact that the accused/applicant is a public servant, it is his first offence and also having regard to the provisions of the Probation of Offenders Act and also the provisions of Section 360 of the Cr.P.C., I am of the opinion that it is a fit case in which the accused/applicant should be extended the benefit of these provisions. Therefore, while maintaining the conviction under Sections 294 and 323 read with Section 34 I.P.C., the sentence awarded till rising of the Court and sentence of fine are set-aside and the accused/applicant should be given the benefit of Section 4 of the Probation of Offenders Act provided he furnishes a personal bond in the sum of Rs. 5,000/- with a surety in the likewise amount to the satisfaction of the trial Court with a condition that he will maintain peace and good

GRPRJ—FS/78 —5/2006—50,000.

(39)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक.....**सन्** 200

आदेश पत्रक (पूर्वानुबद्ध)

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	behaviour for a period of one year from today and he will not commit any offence during this period and if he will commit any offence during this period, then he will appear before the Court to receive the sentence awarded by the trial Court. With this observations this revision stands disposed of. Parties are entitled for certified copy of this order. Sd/- L.C. Bhadoo Judge	